CANADIAN HUMAN
RIGHTS COMMISSION

Annual Report
2005

Canada

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CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

Chief Commissioner *Présidente*

April 2006

The Honourable Noël A. Kinsella
Speaker of the Senate
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Speaker,

Pursuant to section 61 of the *Canadian Human Rights Act* and section 32 of the *Employment Equity Act*, I have the honour to transmit the *2005 Annual Report* of the Canadian Human Rights Commission to you for tabling in the Senate.

Yours sincerely,

Mary Gusella

Encl.

c.c.: Mr. Paul Bélisle
Clerk of the Senate and Clerk of the Parliaments

Ottawa, Canada K1A 1E1

CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

Chief Commissioner *Présidente*

April 2006

The Honourable Peter Milliken, M.P.
Speaker of the House of Commons
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Speaker,

Pursuant to section 61 of the *Canadian Human Rights Act* and section 32 of the *Employment Equity Act*, I have the honour to transmit the *2005 Annual Report* of the Canadian Human Rights Commission to you for tabling in the House of Commons.

Yours sincerely,

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Clerk of the House

Ottawa, Canada K1A 1E1

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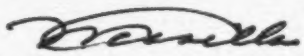
CHIEF COMMISSIONER'S MESSAGE

After thirty-six years in the Public Service of Canada, I have decided to retire effective May 30th. It has been a special privilege to have had the opportunity to serve these last four years in an organization with as significant a mandate as this one, which touches the lives of so many Canadians.

I would like to take this opportunity to signal the outstanding contribution of our Commissioners, management and staff for the vital role which they played in the success that we have achieved. To them goes my heartfelt appreciation for their continuing dedication to the cause of human rights in Canada. In particular, I am pleased that through the hard work and professionalism of all its employees, the Commission's programs have been thoroughly modernized.

The Commission is no longer hampered by a chronic case backlog. There is a new emphasis on discrimination prevention activities undertaken in a spirit of constructive dialogue and cooperation with employers, employees and other stakeholders. The Commission is also undertaking new strategic research and more focused litigation to address issues of systemic discrimination, and our approach to employment equity is being streamlined. All of this has been driven by a commitment to continuous improvement to our management practices.

There is much work left to be done, and the Commission's fight against discrimination in Canada will demand much of its employees in the future. But I am confident that our new business model has created the solid foundation upon which the Commission can continue its important work on behalf of Canadians.



Mary Gusella
Chief Commissioner

HIGHLIGHTS

Dispute Resolution

- The average age of cases has been reduced by 62%, from 25 months in 2002 to 9.5 months at the end of February 2006.
- Active cases aged two years and older were reduced by 86% by the end of February 2006, and now represent 7% of the active caseload compared to 27% in 2002.
- Cases in the inventory have been reduced by 44%, from 1,287 in 2002 to 720 cases at the end of February 2006.

Employment Equity

- In the private sector, persons with disabilities continue to benefit the least from employment equity measures. Conversely, visible minorities are fully represented overall and received hires in line with their availability. Their representation is highest in the banking sector where they now hold 21.8% of jobs, including 7.4% in senior management, 15.4% in middle management and 24.9% in professional occupations.
- In the public service, there are encouraging signs of progress for all designated groups except visible minorities who remain under-utilized. They hold only 8.1% of all jobs and new hires continue to be lower than their availability of 10.4%. The government has not met the goals it set in endorsing the action plan from the report of the Task Force on the Participation of Visible Minorities in the Federal Public Service released in 2000.

Strategic Initiatives

- *A Matter of Rights*, a special report released in October 2005, examined the human rights impact of section 67 of the *Canadian Human Rights Act* which currently restricts the ability of some First Nations people living on reserves to file a complaint under the Act. The report recommended that this section be repealed and outlines the steps which would have to be taken to ensure that First Nations people have access to an effective system for the resolution of human rights issues.

- A report entitled *No Answer* released in July 2005 details the government's failure to adequately accommodate the needs of Canadians who cannot use the regular telephone system as a result of being Deaf, deafened or hard of hearing, and outlines a number of specific recommendations to rectify the situation.

- A conference on Hate on the Internet was hosted in December 2005, to develop a closer partnership and common understanding with community leaders concerned with the issue, and open the door to new networks of civil and governmental stakeholders who share our goals.

The Organization

A major restructuring of the Commission has been completed, and equips the Commission with the wide range of tools required to fully execute its mandate under the *Canadian Human Rights Act*. Its new features include the following:

- A Dispute Resolution Branch which integrates all services related to the processing of a complaint, including pre-complaint services, mediation before and after a complaint is filed, conciliation, investigation, litigation and liaison with the Tribunal;

- A Discrimination Prevention Branch which amalgamates the Employment Equity Compliance Program with a Prevention Initiatives and Liaison Division, Communications and Regional Offices. This will enable the Commission to focus on developing a more positive, productive relationship with employers while providing strategic advice and support;

- A Knowledge Centre which emphasizes policy development, research, legal advice, statistical analysis and knowledge to enhance the level of understanding of human rights within Canadian society;

- A Strategic Initiatives Branch which responds to emerging issues and combats broader problems of a systemic nature.

Prestigious Awards

In June 2005, the Chief Commissioner, Mary Gusella, received the Prime Minister's Outstanding Achievement Award, in recognition of her distinguished career in the Public Service. In bestowing this award, the Prime Minister noted in particular Ms. Gusella's work in revitalizing the Commission.

In August 2005, the Commission was a finalist for the Institute of Public Administration of Canada's Innovative Management Awards in recognition of the success of its change management process.

DISPUTE RESOLUTION MODEL: WHAT'S NEW

This year saw the establishment of a new Dispute Resolution Branch which incorporates all services related to the processing of a complaint into one functional unit. This means a one-stop approach dedicated to resolving complaints in the most efficient way possible, at every stage of the process, from the first telephone inquiry to a Tribunal hearing.

A comprehensive alternative dispute resolution model supports the parties throughout the process with a full range of services. These include preventive mediation as soon as a complaint is received, mediation before and during investigation, conciliation, and litigation services.

The Commission's Advisory Council on Alternative Dispute Resolution continues to support the work of the Commission. The Council ensures the integrity of the program and its consistency with human rights principles. Established in 2003, the Council is comprised of former justices Gérard La Forest, Claire L'Heureux-Dubé, Charles Dubin and Roger Kerans. During 2005, the Council provided the Chief Commissioner with input on a number of issues ranging from legislative reform to mediation techniques and stakeholder consultations.

The First Stop: Preliminary Assessment

Through its new Preliminary Assessment procedure, the Commission focuses on the earliest stages of the process to help parties address incidents of discrimination as soon as possible. To this end, the Commission uses its expertise to identify the best way to resolve the parties' particular concerns quickly and informally. Essentially, preliminary assessment is a frank and open discussion with the parties of crucial issues raised in the complaint, next steps in the process, and potential outcomes.

A success story....

In 2005, our new Preliminary Assessment model enabled a case involving 200 complainants, whose allegations dated back several years, to bypass what would otherwise have been a long and extensive investigation. In a very short time frame, the Assessor identified an issue which was unlikely to be resolved without being referred to the Canadian Human Rights Tribunal. A report was immediately written outlining the issue, the parties and the Commission agreed with the recommendation, and the case went directly to the Tribunal. The Commission is playing a role, in the public interest, in attempting to settle the matter before it proceeds to a Tribunal hearing. This is just one example of how directing more resources to the early stages of our complaint process results in better service to the clients.

As soon as a complaint is received, an experienced human rights specialist helps the parties to narrow the facts in dispute and establish realistic expectations. The assessor can bring the parties together right away to establish the crux of the allegations, identify agreed facts and issues in dispute, provide information about the type of remedy that could be reasonably expected, and generally set the stage for the most appropriate next step in the process. This could lead to a settlement, or to a withdrawal of a complaint, or to an agreement to enter into mediation. A report can be prepared which will speed up the investigation, or, where complex issues are involved such as an interpretation of a statute, the matter can bypass the investigation stage entirely and proceed directly to a Tribunal.

At this stage, complainants can also be referred to alternate forms of redress where these are available, as provided for under sections 40 and 41 of the Act. As the Commission refers more cases to internal redress mechanisms, it also has an obligation to support employers in their efforts to develop systems which meet established standards.

As part of its discrimination prevention approach, the Commission provides advice to employers to ensure that their internal redress systems are responsive and fair. Training materials and learning initiatives have been developed to assist employers. The Commission also provides an online list of trained mediators who are available to respondents looking for contract mediators to help settle disputes in their workplaces. The Commission may monitor employers to ensure that systems are applied consistently and that settlements reached are binding on all parties. A program evaluation project is being implemented which will allow the Commission to measure client satisfaction and mediator performance.

Complainants can return to the Commission when their complaint has already been dealt with. In these cases, the extent to which the alternate redress processes addressed the human rights issues raised in the complaint is assessed before a decision is made that further investigation is warranted.

Recent Court decisions, as well as the new *Public Service Modernization Act*, fully support this approach. The Commission endorses the principle that organizations should take charge of human rights issues in their own workplaces and will continue to help respondents optimize their human rights functions in this respect.

Alternative Dispute Resolution

The Commission strongly believes in the transformative potential of alternative dispute resolution processes and has implemented several new initiatives, outlined below.

- **Preventive mediation** is a voluntary process aimed at helping the parties arrive at a solution which can be implemented quickly to address the potential complainant's main concerns as soon as an inquiry is received but before a complaint is filed.

- **Pre-investigation mediation** is a voluntary process which takes place immediately after a complaint is filed but before an investigation has taken place. Here, Commission mediators ensure that settlements are consistent with the public interest by encouraging the parties to include public interest remedies in their agreements, such as changes to policies and training for managers and staff.

- **Conciliation** is a mandatory process that can be ordered by the Commission at any time once a complaint has been received. New developments in this process include the opportunity for some cases to proceed directly to a Tribunal hearing without further involvement from the Commission if an attempt at reaching a settlement fails. In other cases, an experienced human rights officer prepares an assessment of the complaint and options for settlement based on a new comprehensive investigation report, as well as submissions received from the parties and the assessor's own interactions with them. This information is shared with the parties in advance of their meeting with the conciliator. During the negotiations, the conciliator uses the assessment to focus the discussions on the merits of the case and to look at options for settlement that are reasonable in light of the evidence at hand.

- **Settlement monitoring** is a process by which all settlements approved as a result of various forms of alternative dispute resolution approaches are monitored by the Commission to ensure their full implementation. This includes all settlements approved since January 2003. As of December 2005, 589 files have been completed, 5 required some form of enforcement and 374 files remain active.

- **An awareness program** aimed at employers, service providers, unions and advocacy groups fosters a better understanding of the alternative dispute resolution model and encourages its use.

Investigation

The investigation of cases is now conducted by a team of experts including officers from investigation, litigation and policy, specializing in various grounds, and supported by a senior-level case review committee. Other specialists can be brought in as necessary.

A new, more informative investigation report format is now in use which includes a legal and analytical framework, and better focuses the issues engaged in a complaint. By dedicating resources to grounds-based, multi-disciplinary teams, the best approach to dealing with a particular complaint is more easily identified, leading to more efficient, timely investigations, or other, more appropriate and creative solutions.

From an appreciative complainant...

Thanks again for EVERYTHING! Your kindness and the feeling of someone actually "listening" and understanding my story is very much a part of the healing process.

Litigation

A focused litigation strategy allows the Commission to support the parties at pre-tribunal mediation while concentrating on vigorously pursuing high-impact, public interest cases at the Canadian Human Rights Tribunal.

In 2005, the Commission continued to focus its legal activities on matters having the greatest human rights impact. As in 2004, the Commission continues to refine its public interest role in hearings before the Tribunal. On a case-by-case basis, the Commission determines the scope and nature of its participation after assessing such factors as whether the case raises broad policy issues, relates to major policy concerns, or raises new points of law.

In 2005, Commission counsel was involved in the resolution of 72 complaints by way of Tribunal-sponsored mediation, representing 73.5% of all complaints completed at Tribunal. The Commission participated in 13 of the 24 cases that continued to a hearing in 2005.

Notable Legal Developments

Following are examples of some of the cases in which the Commission participated at Tribunal in 2005.

- In a decision by the Supreme Court of Canada in *House of Commons et al. v. Satnam Vaid et al.*, the Court found that the Act can apply to parliamentary employees, and that the appellants failed to establish their claim of parliamentary privilege regarding their power to hire, manage, and dismiss the Speaker's chauffeur. The Court also found that, due to specific language in the *Parliamentary Employment and Staff Relations Act*, the case must be brought to the Public Service Labour Relations Board and not to the Commission.

- In a ruling by the Canadian Human Rights Tribunal in *Keith Dreaver et al. v. Jim Pankiw*, the Tribunal found that Members of Parliament are not immune from provisions of the Act when sending householders to constituents. The respondent has launched a judicial review of the ruling with the Federal Court.

An innovative solution

Though settlements are often confidential, in some cases the parties jointly decide to publicize the terms of settlement. One such settlement in 2005 was between Senator Jean-Robert Gauthier and Société Radio-Canada (SRC) with respect to French closed captioning at SRC and the Réseau de l'information.

Although the case was scheduled for a Tribunal hearing, counsel for the Commission brought the parties together and organized a mediation presided by the Honourable Gérard La Forest, a former Justice of the Supreme Court of Canada and a member of the Commission's Advisory Council on Alternative Dispute Resolution. The case was resolved, and as part of the settlement, a task force was created to study the technical procedures for closed captioning in French. The task force will define the parameters of a possible partnership between SRC and La Cité Collégiale aimed at training and recruiting qualified staff. This agreement marks a significant step for Francophones who are Deaf or hard of hearing.

- In *Gian Sangha v. MacKenzie Valley Land and Water Board*, the Commission presented a complaint before the Tribunal about discrimination against highly educated visible minority immigrants. This particular case dealt with the differential impact on this group of the employer's qualification criteria which exclude candidates on the basis of over-qualification. Expert evidence suggested that recent immigrants are over-represented in this category. For the first time, a tribunal or court has recognized that refusing to hire a job applicant on the basis that the candidate is deemed to be over-qualified for the job has a discriminatory impact on visible minority immigrants. What started out as a complaint based on overt racism developed into a very sophisticated analysis of a problem of systemic discrimination based on the barriers to employment faced by highly trained visible minorities.

- In *Canadian Human Rights Commission v. Attorney General of Canada (Canadian Armed Forces)*, the issue was whether the Canadian Armed Forces had discriminated against the complainant, George Morris, on the basis of age when it failed to give him a promotion. The Federal Court of Appeal upheld the Tribunal's finding that the Commission could demonstrate a prima facie case without adducing evidence as to the age of the successful candidates, so long as age was a factor in the decision denying the complainant a promotion.

- In *Attorney General of Canada (Canadian Armed Forces) v. Raymond Irvine*, the issue was whether the CAF met its duty to accommodate when it determined that the complainant was medically unfit for service. The Federal Court of Appeal upheld the Tribunal's decision which found that the CAF failed to meet its duty to accommodate because its medical assessment was insufficient. This decision confirms that both the process and result must be taken into consideration in assessing the adequacy of accommodation.

- In the case of *Bob Brown v. National Capital Commission*, the Canadian Human Rights Commission participated in a hearing before the Tribunal dealing with the accessibility of public infrastructure for persons with disabilities. This case relates to the reconstructed York Street Steps in downtown Ottawa which permit a public thoroughfare between Major's Hill Park and the Byward Market which is inaccessible for persons with mobility impairments. A decision is pending.

- The Commission participated in the hearing of a number of complaints dealing with hate messages on the Internet before the Tribunal, an area which the Commission continues to identify as having significant public interest. In one notable development, in *Canadian Human Rights Commission v. Tomasz Winnicki*, the Federal Court ordered the

respondent to refrain from posting hate messages on the Internet pending the decision of the Tribunal in related proceedings. This significant remedy demonstrates the seriousness with which the courts are prepared to deal with hate messages on the Internet.

- In another notable development, a March 10, 2006 decision by the Tribunal in the case of *Warman v. Kulbashian et al.* found that four respondents, including a web hosting service company operated by Mr. Kulbashian, caused hate messages to be communicated and ordered the company to stop posting hate messages and to pay a penalty. In this case, the Tribunal found that the hosting company in question was actively involved in communicating the offensive material and therefore could not benefit from the exemption found in section 13(3) of the *Canadian Human Rights Act*, which is provided for owners of telecommunication undertakings. As a result, it remains to be seen if the ruling will apply to other Internet service providers, where they do more than simply provide a service.

Participation in other matters

In addition to litigation emerging from complaints filed under the Act, the Commission intervened in some other notable matters deemed to have a public interest impact in other jurisdictions. These included:

- A decision dated March 2, 2006 in *Balvir Singh Multani et al. v. Commission scolaire Marguerite-Bourgeoys* in which the Supreme Court of Canada agreed with the Canadian Human Rights Commission's submissions with respect to a school board's duty to accommodate religious beliefs to the point of undue hardship. The Court held that, in the context of this case, the school board's absolute prohibition of kirpans was not necessary to ensure reasonable safety. As a result, the prohibition did not constitute a minimal impairment of Sikh students' freedom of religion and was struck down. The Court expressly noted the Commission's contribution to the legal analysis in the case. While the decision dealt with the circumstances in a particular school, its principles will help clarify the interplay between security and human rights in other contexts.

- A decision by the Supreme Court of Canada on the Government of Canada's reference on same-sex marriage legislation where the Court found that the proposed legislation is consistent with the Constitution.

- Submissions before the Supreme Court of Canada in *Robert Tranchemontagne et al. v. Director of Ontario Disability Support Program et al. (Werbeski)* arguing that human rights legislation binds administrative tribunals and must be applied in determining questions of law.

Pay Equity

There have also been some interesting developments with respect to pay equity. Recent guidance provided by the Federal Court and the Supreme Court of Canada is likely to assist in the timely processing of pay equity complaints. In the past, the investigation of these complaints has often been delayed by difficulties in getting information, particularly information concerning job value. The Court confirmed that parties should cooperate fully and provide information requested during the investigation of a pay equity complaint. If the information does not exist, it should be prepared by the party or parties from whom it is requested.

The Commission participated in a number of important pay equity cases. These included the following:

- In January 2006, the Commission appeared before the Supreme Court of Canada in the case of *CUPE v. Air Canada*. The Court upheld the decision of the Federal Court of Appeal, and confirmed what the Commission has consistently argued: that comparisons for the sake of pay equity may be made between employees of a same company even if they are governed by different collective agreements, so long as they are subject to an employer's common wage and personnel policy. It is a landmark decision for pay equity, as it provides much clarity on an important issue which will in the end simplify and accelerate the investigation process in this and other cases. The Court dismissed Air Canada's appeal with costs against it throughout.

> *In its judgment, the Supreme Court of Canada noted that the Commission's common sense interpretation of establishment is an approach that supports the legislative purposes of section 11 of the* Canadian Human Rights Act.

- In October 2005, the Canadian Human Rights Tribunal released its long-awaited decision in a pay equity case involving the Public Service Alliance of Canada and employees at Canada Post. The Tribunal found that there was a wage gap between employees working in the female-predominant Clerical & Regulatory Group and employees working in the male-predominant Postal Operations Group. The parties have applied for judicial review of that decision.

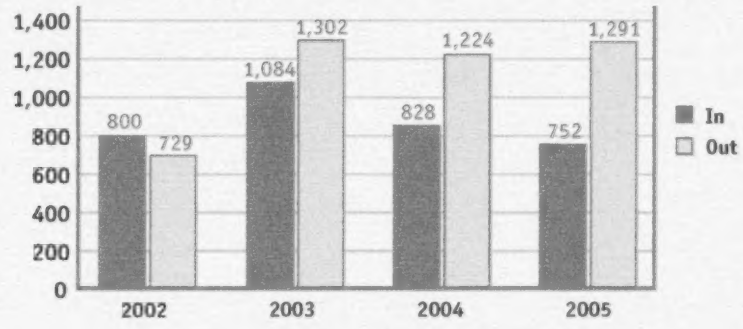
- The Commission delivered a public interest statement before the Canadian Human Rights Tribunal in the case of *CEP et al. v. Bell Canada*. It proposed an adjournment of the proceedings to permit mediation talks as an alternative way to resolve the complaints.

THE DATA: EVIDENCE OF PROGRESS

The following data shows that the Commission's business model implemented in 2002 is producing intended results. The backlog of cases has been virtually eliminated, the complaint workload is in check, and productivity has increased substantially.

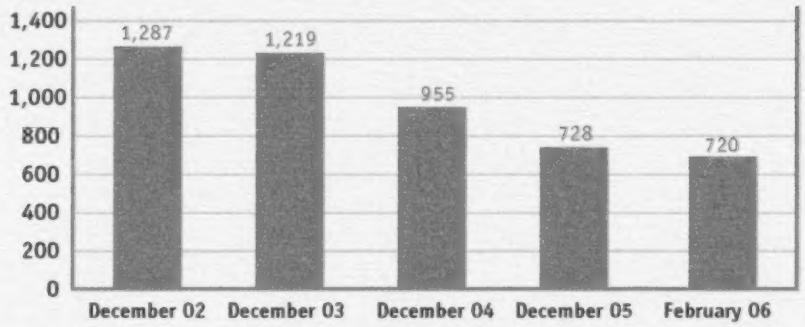
Progress is measured against the year 2002, when the Commission began implementing refinements to its business model.

Figure 1 Cases in, cases out: eliminating the backlog



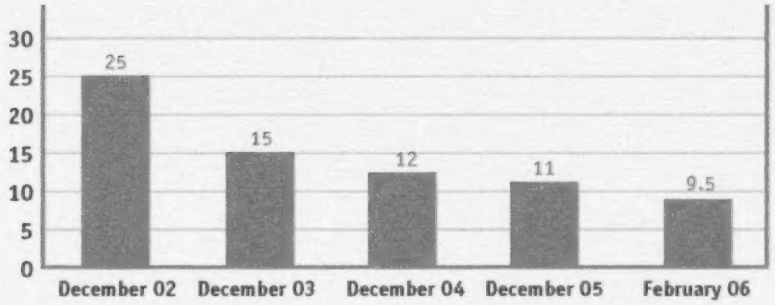
- The data for 2002 shows that whereas 800 new complaints were accepted that year, 729 final decisions were rendered by the Commission. Unless the Commission closes more cases than it accepts, a backlog develops.
- This trend has been reversed these past three years leading to 752 new cases accepted in 2005 and 1,291 final decisions rendered.
- Since 2003, the Commission has closed more cases than it has accepted, thereby virtually eliminating its backlog.

Figure 2 Cases in inventory: a 44% reduction



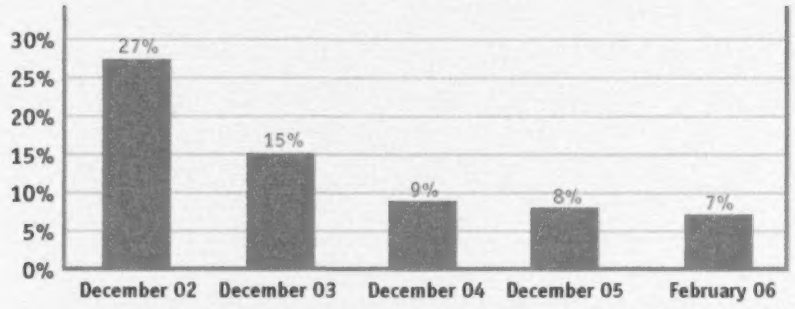
- The active caseload declined from 1,287 cases in 2002 to 720 cases by the end of February 2006, due to greater efficiencies introduced in the Commission's business model.
- This represents a 44% reduction in the number of active cases in the Commission's inventory.

Figure 3 Average age of cases: reduced by 62%



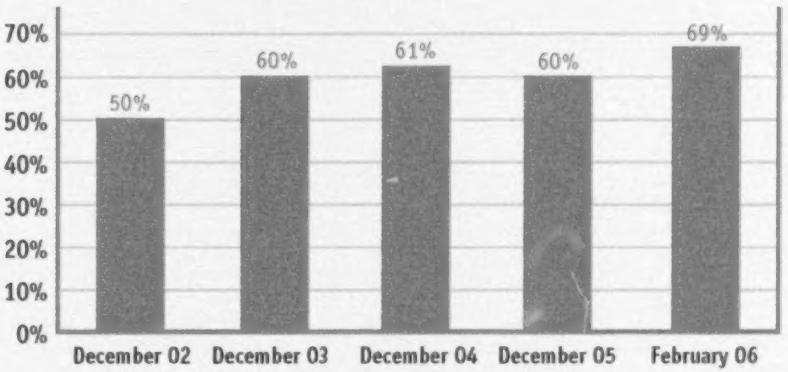
- The Commission was able to reduce the average age of its active caseload from 25 months in 2002 to 9.5 months by the end of February 2006.
- This represents a 62% reduction over 2002.

Figure 4 Cases two years or older: reduced by 86%



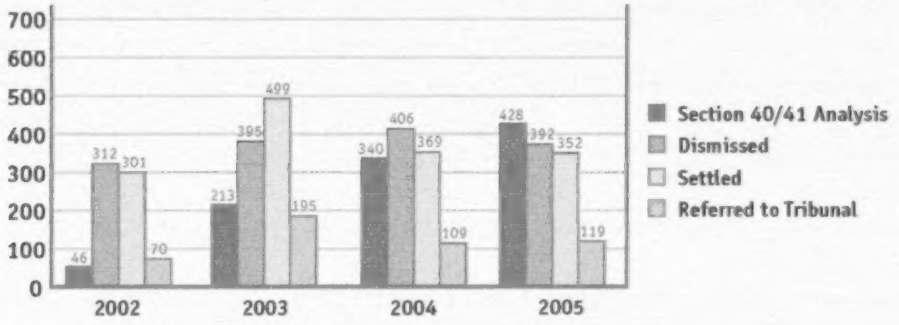
- The number of cases two years or older has been reduced from 27% of the caseload in 2002 to 7% by the end of February 2006. Whereas 347 cases were two years or older in 2002, there were 49 such cases by the end of February 2006.
- This represents a reduction of 86% over 2002.
- Due to the complexity of some cases which involve systemic issues, there will always be older cases in our inventory. But these should never represent more than a very small proportion of our caseload.

Figure 5 Cases under one year: increased from 50% to 69% of total caseload



- Whereas cases under one year represented 50% of the caseload in 2002, these have increased to 69% at the end of February 2006.
- The Commission is making steady progress toward a service standard by which 85% of cases will be resolved within one year's time.

Figure 6 Final Decisions by Type: a 77% increase in productivity



- *Our last Annual Report showed 122 cases as having been referred to Tribunal in 2004. That figure has been adjusted downward to 109 this year to reflect the fact that 13 of these cases were settled through conciliation during 2005, prior to a Tribunal hearing.*

How cases were resolved in 2005

There were 1,291 final decisions rendered by the Commission in 2005, a 5% increase over 2004, and a 77% increase over 2002. Of these:

- 428 or 33% were decisions not to deal with a complaint pursuant to section 40/41 of the Act. In 353 of those cases, complainants were asked to first pursue other redress mechanisms. The remaining 75 cases were out of time, out of jurisdiction, or considered trivial, frivolous or vexatious. This represents a ten-fold increase over 2002.

- In the remaining 863 cases, the Commission dealt with the complaints on their merits and ultimately made a decision to either dismiss the complaint, approve a settlement or refer the matter to Tribunal.

- The 392 dismissed cases represented 45% of all cases dealt with by the Commission in 2005. Typically, these are cases that have been submitted to the Commission for decision following an investigation. Cases can be dismissed for a number of reasons, such as lack of sufficient evidence or merit, or because the respondent has taken appropriate action to remedy the situation. This could also include a small number of cases where the complainants withdrew or abandoned their complaints. This percentage represents a fairly steady trend over the past four years.

- A total of 352 cases were settled. This represents 41% of all cases dealt with in 2005. Most of these settlements were arrived at with the assistance of a Commission mediator or conciliator. In a small number of cases, the parties settled the matter on their own.
- A total of 119 cases were referred to the Tribunal in 2005, 10 more than the previous year. This includes the group of 594 complaints which the Commission captured as one case for data purposes. It also represents 14% of cases dealt with in 2005, compared to 12% in 2004.

Figure 7 Complaints Signed by Types of Respondents

	2004		2005	
	#	%	#	%
Public Sector	373	45	338*	45
Private Sector	308	37	301	40
Individuals	81	10	52	7
Reserves, Bands and Councils	45	5	34	5
Unions	21	3	27	4
Total	**828**	**100**	**752**	**100**

* The Commission accepted a group of 594 related complaints which are counted as one.

Figure 8 Complaints Signed by Province or Territory

	2002		2003		2004		2005	
	#	%	#	%	#	%	#	%
Ontario	329	41	464	43	357	43	361	48
British Columbia and Yukon	99	12	112	10	127	15	113	15
Quebec	140	18	168	15	106	13	84	11
Alberta, Northwest Territories and Nunavut	91	11	133	12	98	12	77	10
Nova Scotia	51	6	45	4	41	5	24	3
Saskatchewan	22	3	39	4	35	4	32	4
Manitoba	32	4	60	6	31	4	40	5
New Brunswick	21	3	32	3	14	2	15	2
Newfoundland and Labrador	8	1	17	2	12	1	4	1
Outside of Canada	4	1	7	1	4	—	2	—
Prince Edward Island	3	0	7	1	3	—	—	—
Total	**800**	**100**	**1,084**	**100**	**828**	**100**	**752***	**100**

* The Commission accepted a group of 594 related complaints which are counted as one.

Figure 9 Grounds of Discrimination Cited in Signed Complaints*

	2002		2003		2004		2005	
	#	%	#	%	#	%	#	%
Disability	438	44	495	37	389	39	429	50
Sex	188	19	204	16	165	17	102**	12
National or ethnic origin	94	9	141	11	109	11	73	8
Race	71	7	146	11	105	11	74	8
Age	65	7	159	12	60	6	51	6
Religion	30	3	35	3	34	3	40	5
Colour	30	3	59	4	26	3	14	2
Sexual orientation	31	3	27	2	21	2	23	3
Marital status	14	2	15	1	14	2	13	1
Pardon	3	—	1	—	5	—	2	—
Total	**994**	**100**	**1,320**	**100**	**989**	**100**	**866**	**100**

* Total number of grounds cited exceeds the total number of complaints signed because some complaints dealt with more than one ground.

** The Commission accepted a group of 594 related complaints which are counted as one.

Figure 10 Type of Allegations Cited in Signed Complaints*

	2002		2003		2004		2005	
	#	%	#	%	#	%	#	%
Employment-related (sections 7, 8, 10)	666	65	1,048	66	834	67	821**	75
Services-related (sections 5, 6)	128	13	195	12	179	14	132	12
Harassment - employment (section 14)	164	16	249	16	175	14	95	9
Retaliation (section 14.1)	15	2	33	2	22	2	12	1
Harassment – services (section 14)	26	3	31	2	18	1	7	1
Hate messages (section 13)	4	—	10	1	10	1	13	1
Union membership (section 9)	7	0.5	2	—	7	1	7	1
Pay equity (section 11)	7	0.5	7	—	—	—	2	—
Notices, signs, symbols (section 12)	2	—	9	1	—	—	2	—
Total	**1,019**	**100**	**1,584**	**100**	**1,245**	**100**	**1,091**	**100**

* Total number of allegations cited exceeds the total number of complaints signed because some complaints dealt with more than one allegation.

** The Commission accepted a group of 594 related complaints which are counted as one.

Progress of Designated Groups

An Explanation of the Data

The following section compares the progress of the four designated groups in the private and the public sectors covered by the *Employment Equity Act* since its inception in 1997. Progress is measured against the 2001 Census availability for women, visible minorities and Aboriginal people. The availability estimates for persons with disabilities are from the 2001 Participation and Activity Limitation Survey (PALS).

In the case of the private sector, statistics are based upon the Commission's analysis of 496 employer reports provided to the Minister of Labour as of September 2005. Since that time there have been some additions and adjustments to the employer reports submitted. Therefore there may be small discrepancies between the numbers appearing in this report and those in the Annual Report on Employment Equity 2005 tabled by the Minister of Labour which utilizes the data provided later.

In the case of the public sector, the Public Service Human Resources Management Agency of Canada (PSHRMAC) reconciles the Census results to take into consideration the composition of that particular workforce. These estimates include only Canadian citizens, since the *Public Service Employment Act* gives an absolute preference to Canadian citizens in hirings into the public service. This has the impact of reducing the overall availability of visible minorities from 12.6% to 10.4%.

The *Employment Equity Act* also applies to "separate employers" who are part of the public sector, but not of the "core" public service, such as the Canada Revenue Agency. Because these employers file separate reports, it is not possible to comment on the progress of designated groups in their combined workforces. However, separate employers are subject to audit and must put in place employment equity plans to achieve full representation of designated groups in their workforces.

Opportunities for Growth

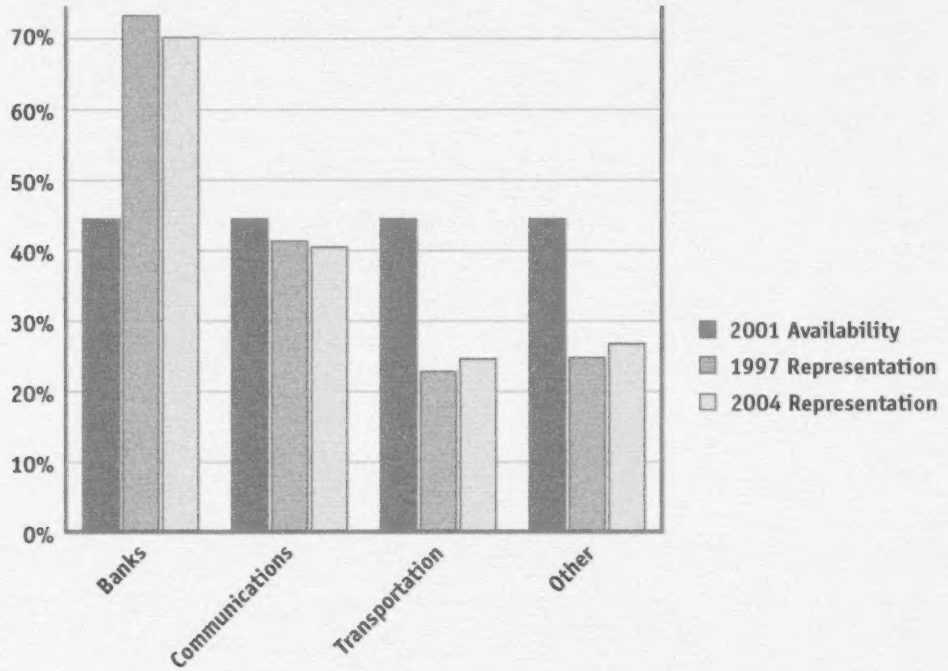
In the Private Sector

The year 2004 was a banner year in terms of opportunities for members of designated groups in the private sector. In 2004, a total of 496 employers filed data on their combined workforces of about 650,000 employees. Private sector organizations covered by the Act include those in banking, communications and transportation and those in "other" sectors, such as mining, museums, grain companies and nuclear power corporations. There were almost 100,000 hires in the private sector in 2004, over 20,000 more than the previous year. In total, designated group members received about half of these hires. Among all the designated groups, only visible minorities received hires in line with their availability, while persons with disabilities continued to benefit the least.

In the Public Service

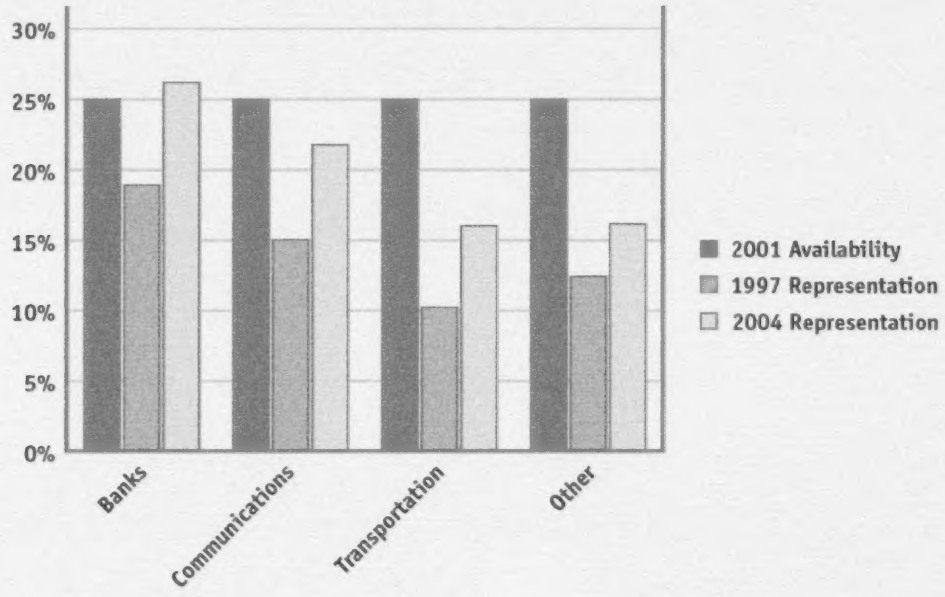
As of March 31, 2005, 73 federal departments and agencies employed about 166,000 people. Over 10,200 job openings were filled, which was 2,000 fewer than the previous year. Approximately 3,300 of these hires were for permanent jobs and 6,900 were for temporary jobs of three months or more. There were encouraging signs of progress for all groups except visible minorities who continue to be severely under-utilized. Regrettably, the government has never met the goals it set in endorsing the action plan from the report of the Task Force on the Participation of Visible Minorities in the Federal Public Service released in 2000.

Figure 11 Women in the Private Sector



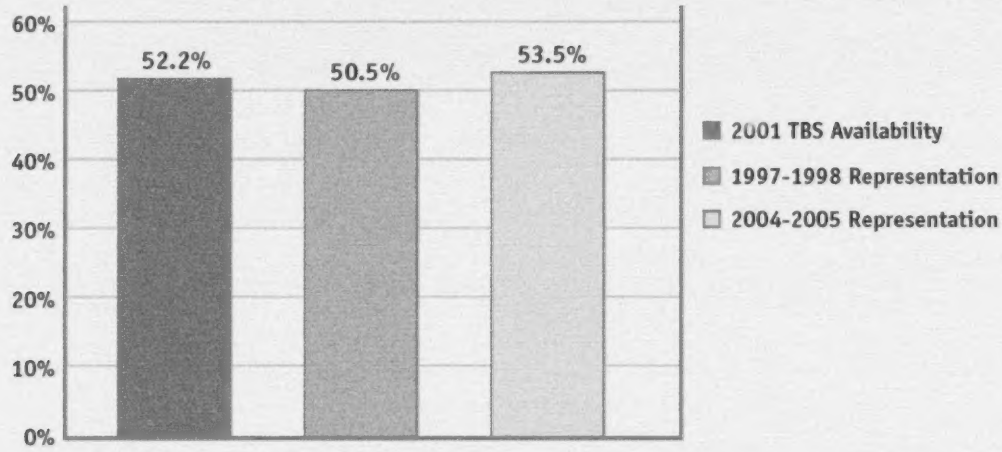
- Women held 43.4% of all jobs in 2004, down slightly from the 44.6% registered in 1997, and below the overall Census availability for the private sector of 47.3%.
- Their share of senior management positions increased to 20.9% from 14.8% in 1997, but remains lower than the availability of 25.1% for these jobs.
- Women continue to hold most of the jobs in the banking sector, mainly because of the large number of clerical jobs. Their representation dropped slightly from 73.6% to 69.6% between 1997 and 2004.
- Important gains were made in senior management positions in the banking sector, where their share of jobs rose from 18.6% in 1997 to 27.2% in 2004. Women also occupy over half of all professional and middle management positions in this sector.

Figure 12 Women in Senior Management in the Federally Regulated Private Sector



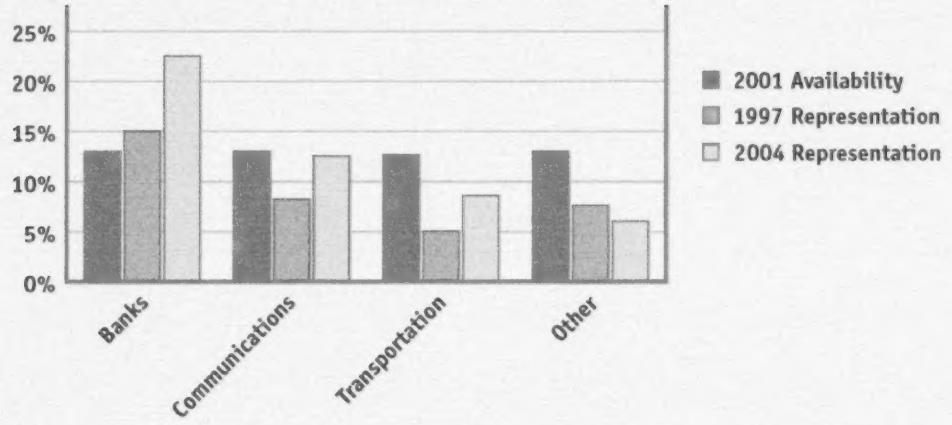
- Women hold 25.3% of all jobs in the transportation sector, an increase from 23.3% in 1997. They hold 16.0% of senior management positions, a substantial increase compared to 9.9% in 1997.
- In communications, women held 41.1% of all jobs, relatively unchanged since 1997. Although their share of middle management and professional jobs remained stable, their representation in senior management grew from 14.9% in 1997 to 21.3% in 2004.
- Women continue to receive a greater share of all part-time and temporary work. These jobs now represent 16.3% of all jobs, up from 14.7% in 1997. In 2004, 23.4% of women and 10.8% of men held part-time and temporary jobs, up from 22.6% of women and 8.4% of men in 1997.
- Although women with disabilities and visible minority women held more part-time and temporary jobs than men, these types of jobs were most noticeable among Aboriginal women, 25.7% of whom worked on a part-time or temporary basis in 2004.
- In 2004, women received 81.8% of the salary received by men, slightly higher than the proportion in 1997 which was 77.3%.

Figure 13 Women in the Public Service



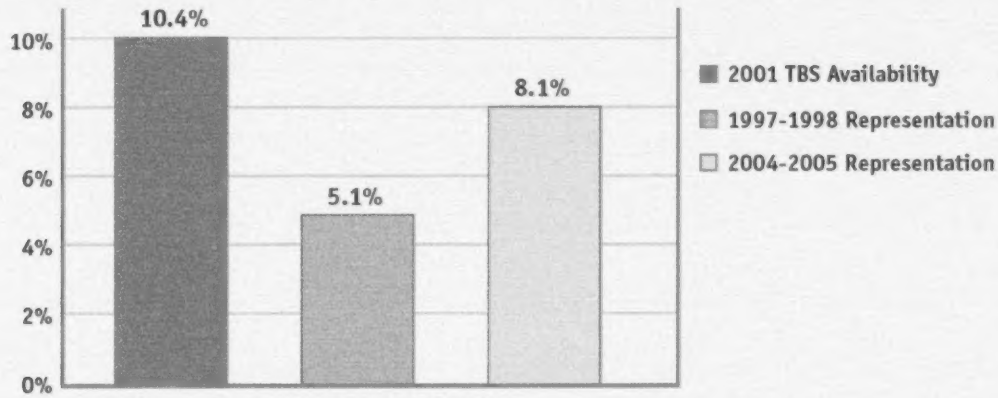
- At 53.5%, the overall representation of women is in line with the Census availability of 52.2% for the public service.
- Women received 57.1% of all hires, very similar to the previous year (57.2%).
- Since 1997, women's share of positions in the executive group has risen from 25.1% to 37.2%. Their representation also rose in the scientific and professional category, from 32.2% to 42.3% since 1997.
- Their share of promotions in or to the executive group increased to 47.1%, up from 39.1% the previous year, and 34.0% in 1997. However, for the third year in a row, their share of hires decreased, to 31.7% from 38.7% in 2003, and 43.9% in 2002.
- There is room for further progress. Three out of ten women in the public service work in the administrative support category, and women occupy three of five term positions. These factors contribute to the fact that more than half of women in the public service earn less than $50,000 annually compared to one third of men.

Figure 14 Visible Minorities in the Private Sector



- The share of jobs held by visible minorities increased from 9.7% in 1997 to 13.3% in 2004, in line with the Census availability of 12.6%.
- They received 14.2% of all hires in 2004. Since 1997, their share of hires has been consistently higher than availability, although their progress varied from sector to sector.
- While their share of senior management positions has increased steadily from 2.8% 1997 to 4.4% in 2004, visible minorities remain under-utilized in this category compared to availability at 8.2%.
- Their representation is highest in the banking sector where their share of jobs increased to 21.8% from 15.0% in 1997, due to consistently high shares of hires. They now hold 7.4% of all positions in senior management, 15.4% in middle management and 24.9% of all professional occupations. The corresponding figures in 1997 were 4.3% for senior management, 9.3% for middle management and 18.3% for professionals.
- Visible minorities also registered increases in the communications sector between 1997 and 2004, from 8.9% to 12.2% and in the transportation sector, from 5.3% to 8.5%.

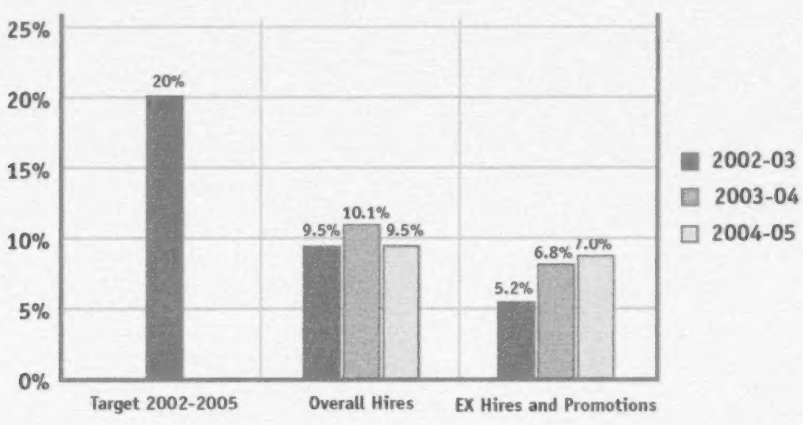
Figure 15 Visible Minorities in the Public Service



- The overall representation of visible minorities stood at 8.1%, a slight increase from the previous year when they held 7.8% of all jobs, but considerably lower than the public service availability of 10.4%.

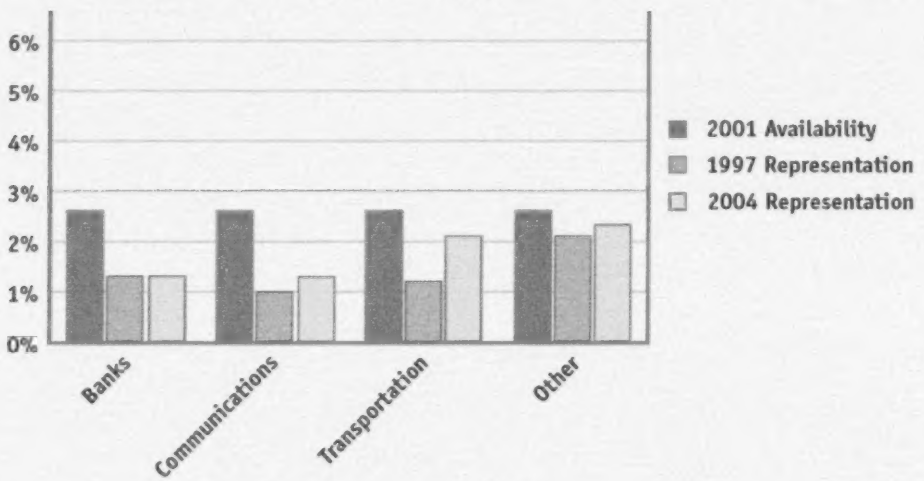
- As noted earlier, there were over 10,200 hires in the public service in 2004-2005, consisting of about 3,300 permanent and 6,900 temporary positions. Visible minorities received 9.5% of hires overall. These included 11.3% permanent and 8.7% temporary hires. This is considerably lower than the 20% target established for 2002-2003 by the Task Force on the Participation of Visible Minorities in the Federal Public Service. If that target had been met this year, visible minorities would have received 2,031 appointments instead of 971.

Figure 16 Visible Minorities in the Public Service Hires and Promotions vs Task Force Target



- The Task Force also set a target of one in five hires and promotions in the executive category to be reached by March 2005. As of that date, the share of visible minorities in executive positions was 5.1%. This past year, visible minorities received just 7.0% of the 525 hires and promotions in this category. This was a slight improvement over the 6.8% they received in March 2004, and 5.2% the previous year. If the 20% target had been met, visible minorities would have received 105 appointments as opposed to 37.
- Visible minorities' share of hires into the executive category fell from 13.3% last year to 6.7% this year. They received only 4 of the 60 hires into this category. They also received 33 of the 465 promotions in or to the executive category, or 7.1%, up from 6.0% the previous year.
- Only 15 of the 73 federal departments met the 10.4% benchmark for visible minorities in the public service.

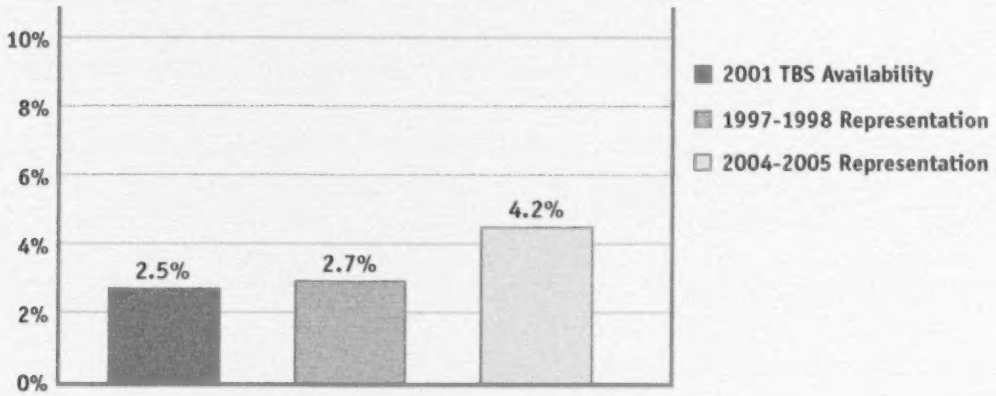
Figure 17 Aboriginal People in the Private Sector



- The share of jobs held by Aboriginal people in the private sector increased from 1.3% in 1997 to 1.7% in 2004, unchanged from the previous two years and still short of the 2.6% Census availability.
- Their share of hires in 2004 was 1.8%, down from 1.9% in 2002 and 2003.
- At 2.2%, their representation was highest in the transportation and "other" sectors, which include some mining, fish marketing and grain operations located in northern and western regions where there is a high concentration of Aboriginal people. Their share of hires has been highest in the transportation sector for the past three years, in line with availability.

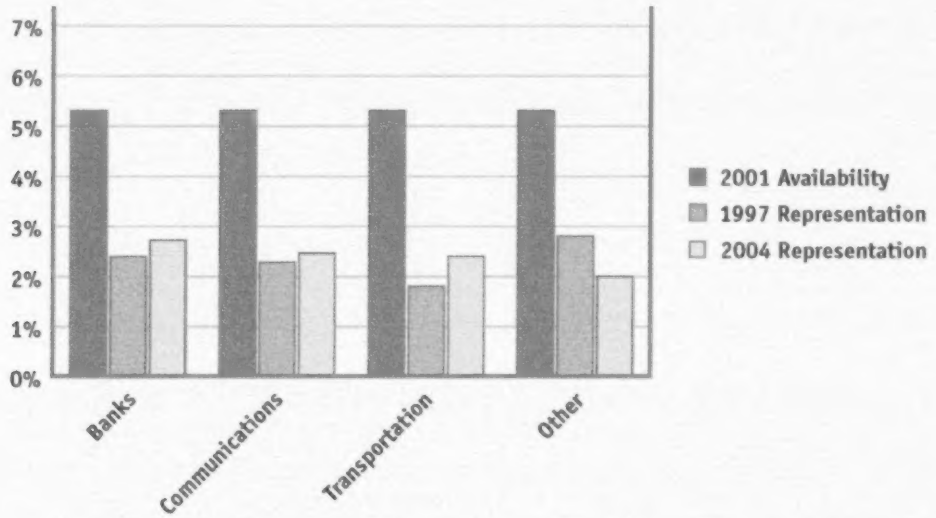
- In the banking sector, Aboriginal people held 1.3% of jobs, unchanged from 1997. Their share of hires in this sector increased to 1.4% from 1.0% in 2003. While this was the highest proportion of hires over the past several years, it was still less than the 2.6% availability.
- Aboriginal people held 1.4% of jobs in the communications sector in 2004, an increase from 1.1% in 1997. They received just 1.4% of hires in this sector, down from 1.7% the previous year.

Figure 18 Aboriginal People in the Public Service



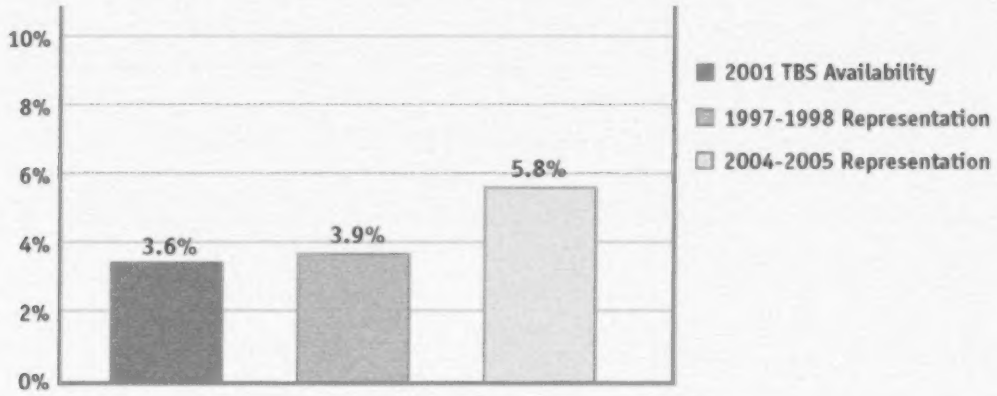
- In contrast to the private sector, Aboriginal people's share of jobs in the public service has risen every year since 1997 when it was 2.7%, reaching 4.2% in March 2005.
- This past year, they received 4.3% of all hires overall, and 4.6% of hires into permanent positions.
- They received a share of hires greater than the Census benchmark in all occupational categories, except in the executive category, where they received 1.7%.
- The Department of Indian Affairs and Northern Development (DIAND) employs 17.2% of all Aboriginal employees in the federal public service. However, even with this Department removed, the representation of Aboriginal people in the public service is 3.5%, substantially higher than the public service availability of 2.5%.

Figure 19 Persons with Disabilities in the Private Sector



- Persons with disabilities continue to benefit the least from employment equity in the private sector. Their representation is consistently lower than the Census availability of 5.3% across all sectors.
- At 2.5%, their representation in 2004 was a slight improvement from 2.3%, where it stood for a number of years. Still, they received only 1.1% of all hires in 2004, about the same as in 1997 when their share of hires was 1.0%. Persons with disabilities received about 1,100 hires in all sectors. They should have received about 5,200 based on their Census availability.
- Still, some improvements were noted. In the banking sector, where their representation had been lower than in other sectors, persons with disabilities held 2.8% of jobs, up from 2.2% in 2003 and 2.4% in 1997. Their share of hires increased from 1.2% in 1997 to 1.7% in 2004. This was higher than in other sectors but considerably lower than availability.
- At 2.5% in the communications sector, the representation of persons with disabilities has remained largely unchanged since 1997. They received just 1.0% of hires in this sector.
- In the transportation sector, their share of jobs rose from 1.8% in 1997 to 2.4% in 2004. They received 1.1% of hires in this sector.

Figure 20 Persons with Disabilities in the Public Service



- The representation of persons with disabilities in the public service has increased every year, going from 3.9% in 1997 to 5.8% in 2005. This is above the public service availability of 3.6%.
- Persons with disabilities occupied 5.5% of all positions in the executive category.
- However, during each of the past four years, persons with disabilities continued to receive only 3.1% of all hires, indicating that the increased representation is mainly due to increased self-identification rather than hires. Their share of hires in all categories except for Administrative Support, and Administrative and Foreign Service was substantially lower than the public service availability of 3.6%.
- A total of 59 of the 73 federal departments met the public service availability for persons with disabilities.

Employment Equity Compliance Program

Striving for Continuous Improvement

Now on the eve of its tenth anniversary, the Employment Equity Compliance Program forms an important part of our efforts towards renewal and continuous improvement. To that end, the audit process is being examined to ensure that it accurately reflects the environment in which the program currently operates.

The Employment Equity Compliance Program requires employers to identify barriers to employment and implement best practices to eliminate gaps in the representation of designated groups. Through the *Employment Equity Act*, the Commission is mandated to conduct audits of public sector and federally regulated private sector workplaces to ensure compliance with the Act.

Efforts being deployed towards an updated process will build on the program's current strengths while positioning it for greater effectiveness and efficiency in the years to come. The various employer profiles and the needs of the designated groups most under-utilized in the workplace will be an important direction as we revitalize our approaches.

Our experience with the audit program reveals that employers need greater support with respect to the level of information and knowledge which they require to increase compliance and sustain gains achieved. Similarly, as the program progresses, the Commission gathers more and more information through the audit process on successful strategies for combatting discrimination. Sharing knowledge with employers on hiring and promotion practices that help ensure equality in the workplace for designated groups is an important aspect of the program.

To this end, the program has been repositioned within the newly formed Discrimination Prevention Branch. This will allow the Commission to enhance its audit approach with the provision of targeted advice, preventive tools and enhanced information to continuously improve the human rights culture in employers' workplaces.

Our revitalized audit approach will reflect our commitment to ensuring that employers comply with their obligations under the *Employment Equity Act*, while fostering a better understanding of human rights and preventing discrimination from happening in the first place. The end result will be a more positive, productive relationship with employers.

Audit Results

Status of audits

Figure 21 provides information on the number of audits completed to date under the Act and the number of audits that remain to be done.

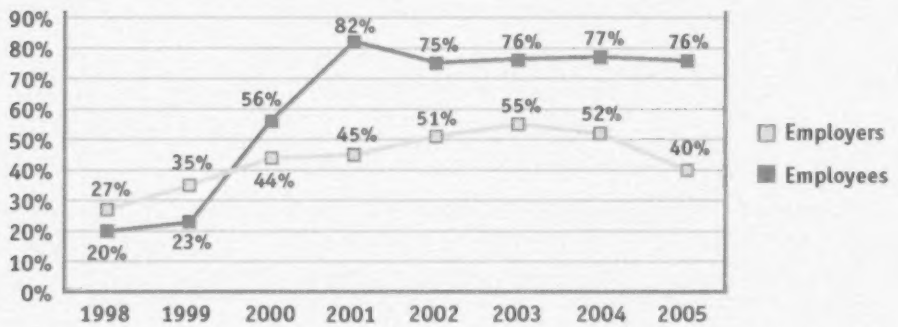
Figure 21 Status of Audits to December 31, 2005

Employer Status	Number of Organizations
AUDITS COMPLETED AND IN PROGRESS	
Employers in compliance	205
Audits cancelled	41
Employers currently under audit	38
Total employers audited or under audit	284
REMAINING AUDITS	
Employers with more than 500 employees	63
Employers with 100 to 500 employees	290

Employers and Employees Covered by Audits

Figure 22 shows that 40% of the 588 employers currently under the Act have been audited or are under audit. This proportion is down from previous years for two reasons. There was an increase in new employers reporting under the Act. Also, employers who are no longer under the Act but had been the subject of an audit have been removed from the list of employers currently under the Act. However, the percentage of the workforce in employers audited or under audit remained almost unchanged at 76%. This includes employees in the new audits initiated with the Canadian Forces and the Canadian Security Intelligence Service in 2005.

Figure 22 Percentage of Employers and Employees under the *Employment Equity Act* Covered by Audits



Employers in Compliance

The Commission's efforts in 2005 continued to be focused on finishing the audits previously launched. During the course of the year, the Commission found 16 employers in compliance, which was down from the previous year when 44 were found in compliance. Results in 2004 reflected the completion of two pilot projects, one with small, private sector employers and one with public sector employers with fewer than 100 employees, that resulted in findings of compliance.

As stated earlier, the Commission has been undertaking a review of its audit processes and implemented a new and strengthened accountability regime as well as streamlined procedures. This work is expected to conclude in 2006, and will result in audits taking less time in the future.

Figure 23 shows that since 1998, 205 employers have been found in compliance with the requirements of the Act. It also shows that no directions were issued over the past three years, all enforcement action having been taken in the earlier years of the program, the most recent being in 2002.

Figure 23 Employers in Compliance

STATUS OF EMPLOYERS	1998 to 2003	2003	2004	2005	Cumulative 1998-2005
In compliance	74	40	44	16	174
In compliance after a direction	23	0	0	0	23
In compliance after the Commission or the employer referred the case to Tribunal*	8	0	0	0	8
Total employers in compliance	**105**	**40**	**44**	**16**	**205**

* All these employers achieved compliance before the Tribunal was held.

Profile of Employers Subject to the Act

Figure 24 shows the number of employers subject to the *Employment Equity Act* and the number of employees in each sector, including those who have been or are being audited. It shows the Commission's focus on auditing larger employers, where the potential impact for progress in the employment of designated groups is greatest. Whereas the banking sector—where 71% of employees have been audited—averages some 9,000 employees per organization, conversely the transportation sector—where 27% of employers have been audited—averages 277 employees per enterprise.

Figure 24 Employers and employees by sector subject to the *Employment Equity Act*, audited or under audit

SECTOR	SUB SECTOR	SUBJECT TO THE ACT		COMPLETED OR UNDER AUDIT*	
		Employers	Employees	Employers	Employees
Private Sector (as of December 31, 2004)	Banking	21	184,344	15	171,561
	Communication	89	219,050	29	152,629
	Transportation	321	189,052	87	86,775
	Other	65	58,541	26	36,771
Federal Public Service (as of March 31, 2005)		73	165,856	67	157,153
Separate Federal Agencies (as of March 31, 2005)		19	146,490	11	126,082
TOTAL		**588**	**963,333**	**235**	**730,971**

* The number of employers who have completed or are under audit differs from Figure 21 as it includes only those employers under the Act as of the date indicated in the left-hand margin.

ADVANCING HUMAN RIGHTS AND FREEDOMS

Overview

Of the four major roles conferred on this Commission through the *Canadian Human Rights Act*, one is related to providing an effective remedy through a fair complaint process, while the other three are related to the advancement of human rights and freedoms. The Commission is delivering on this latter mandate in four ways:

- the Discrimination Prevention Program works with employers to prevent discrimination before it occurs;
- the Knowledge Centre carries out research and studies;
- the Strategic Initiatives Branch monitors emerging issues and combats systemic discrimination; and
- the communications function promotes a better understanding of the Commission's roles and activities across the country.

Discrimination Prevention Program

The Prevention Mandate

The Discrimination Prevention Program was introduced in 2004 with a specific mandate to work with employers to prevent discrimination and develop strategies to resolve complaints effectively and quickly. The Program works to advance human rights by engaging key stakeholders toward preventing discrimination in workplaces and service centres, and raising public awareness, understanding and acceptance of these issues. With greater efficiencies built into a new, comprehensive dispute resolution model, the Commission is able to channel more resources and energies into these types of remedial efforts, enabling it to execute the full scale of its mandate as required by the *Canadian Human Rights Act*.

This year, the program was relocated within the new Discrimination Prevention Branch, which also includes the work of the Employment Equity Compliance Program, Regional Offices and Communications unit. In order to help them gather intelligence related to trends and patterns in complaints, Discrimination Prevention Branch officers are closely integrated with the work of other branches within the Commission. This allows the Commission to focus on and coordinate its work in the areas of prevention, compliance, and information-sharing in an entirely new way.

The Program is now Firmly Established

The Discrimination Prevention Program has now taken root and is experiencing considerable growth as more and more employers embrace a preventive approach as an important part of their overall human rights strategy. To date, seven organizations with a combined workforce of 167,000 employees have signed a Memorandum of Understanding:

- Canadian Forces
- Royal Canadian Mounted Police
- National Bank of Canada
- West Jet Airlines
- Canada Border Services Agency
- Canada Post Corporation, and
- Servisair / GlobeGround Inc.

Why Sign a Memorandum of Understanding?

By signing memoranda of understanding, these employers are embarking on a formal working relationship with the Commission. As a first step, the Commission helps them determine problematic areas or issues affecting human rights in their workplaces. It then helps equip them with the tools needed to combat identified sources of discrimination and assists them in adopting appropriate approaches and effective internal redress mechanisms.

Solutions may include assistance with respect to the formulation, revision and implementation of workplace policies which meet defined standards and remedies; sharing best practices through human rights training and information; and developing various instruments such as case studies, presentations, posters and interactive teaching tools to prevent human rights abuses. Training may cover a wide range of human rights issues from the duty to accommodate, to harassment, to investigative techniques. Training manuals have been developed on the Duty to Accommodate and Anti-Harassment, and next year will see the development of a train-the-trainer program.

As a result of a formal working relationship with the Association of Professional Executives of the Public Service of Canada, the Commission conducted two pilot training sessions on the duty to accommodate in Ottawa and Montreal, extended to other executives across Canada via video-conference. Here is what one session participant had to say:

"The session was fantastic. I have made recommendations within [my organization] regarding the presentation of the session or a training course to our EXs here. I understand that APEX is thinking of taking on the idea of "environmental sensitivities" or "scent free" environments. I am thrilled with that prospect and would love to put you in touch with others . . . that would also be thrilled (sic)."

Offering Services From Coast to Coast

In order to ensure that preventive resources are deployed where they will have the greatest impact, the Discrimination Prevention Program is a broad initiative involving all regions of Canada. In support of the program's priorities, the Commission's Regional Offices foster working relationships with many organizations and groups such as public and private sector employers, unions, federal councils, First Nations' communities and various associations representing visible minorities and persons with disabilities. In addition to training initiatives, they deal with a variety of issues such as racial discrimination, on-line hate, racism-free workplaces and barrier-free design. Close collaboration between regional staff and stakeholders headquartered in the various regions helps the Commission identify and target issues that are relevant across the country.

Promising Results

Preliminary results are promising. After just one year, there is already evidence that the Commission is receiving fewer complaints from those organizations which are proactively engaged in its prevention strategy. The Commission will monitor this impact closely.

A Growing Commitment

The commitment of employers to work together with the Commission to help implement practices and policies that may resolve human rights disputes is the first step towards building inclusive, respectful workplaces. That commitment is growing. Current negotiations with a number of employers are expected to result in additional memoranda of understanding being signed during the next year. As the Commission expands its efforts in this area, more of its tools and resources will be made available online, making them easily accessible to all employers, unions and other stakeholders interested in providing a discrimination-free environment.

The Knowledge Centre

The Purpose of the Centre

The Commission has established a Knowledge Centre in response to its legislated obligation to encourage the advancement of human rights and freedoms. The Knowledge Centre will coordinate the development of knowledge about human rights and freedoms in order to give greater expression to our mandate to carry out research and studies under the *Canadian Human Rights Act*.

The Centre conducts research, develops policy, provides internal legal advice, and gathers and analyzes statistics in support of research, policy development and management decision-making. It also assumes responsibility for regulatory affairs, which includes the development of regulations and guidelines related to both the *Canadian Human Rights Act* and the *Employment Equity Act*. The Commission's library is part of the Knowledge Centre.

The Research Projects

The research initiatives will bring together Commission specialists and human rights experts to guide the Commission's work and inform employers, service providers, unions, advocacy groups, stakeholders and the Canadian public in matters relevant to human rights. In 2005, the Knowledge Centre started defining a framework to guide its research activities and to establish priorities for 2006.

For example, the Commission's Looking Ahead agenda included a recommendation for the release of a periodic report on the state of human rights in Canada, a proposal which was solidly supported by stakeholders. This initiative will require considerable research, including the development of human rights indicators to allow the assessment of progress. This is the type of project which will be carried out

by the Knowledge Centre, and will be the subject of ongoing consultations with stakeholders.

Developments on the Policy Front

Following are some examples of work related to policy development and project monitoring which is being carried out by the Knowledge Centre.

International Convention on the Rights of Persons with Disabilities
The Commission has participated in consultations and attended sessions of the United Nations' Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The proposed Convention is one of the most important disability projects undertaken by the international community. The project has brought together a broad range of academic and community leaders in the field of disability as well as members from national human rights institutions.

Project with India's National Human Rights Commission
In June 2005, the Commission sent a mission to India to wrap up the bilateral project with that country's National Human Rights Commission. Officials also attended the National Conference on Disability in New Delhi. A human rights training manual was developed through a partnership of young lawyers and human rights experts. This manual is being used to encourage the development of human rights curricula in law schools throughout India. It will also be posted on the Internet as part of a strategy to raise awareness of the human rights of persons with disabilities. The end of the project was marked by a successful National Conference at which copies of the manual were distributed.

Policy on Alcohol and Drug Testing
The Commission is revising its Policy on Alcohol and Drug Testing implemented in 2002. A revised policy, to be issued in 2006, will incorporate recent jurisprudence on this issue.

Federally Sentenced Women
The Commission continues to work with Correctional Service Canada to follow up on the implementation of the 19 recommendations proposed in the Commission's report *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, released in January 2004. The recommendations called for action in the areas of risk and need assessment, safe and humane custody and supervision, rehabilitation and reintegration programming, and mechanisms for redress.

Strategic Initiatives

Purpose and Mandate

A primary objective of human rights legislation is to change persistent patterns of inequality and identify emerging human rights issues. In 2004, the Commission set up a proactive initiatives team which has now been integrated into the new Strategic Initiatives Branch. Its role is to lead the Commission in undertaking non-complaints-based projects aimed at resolving key human rights issues and promoting systemic change.

Last year's annual report outlined three special projects selected for study. We are pleased to report on progress made with all three projects.

No Answer

The Government of Canada is failing to adequately accommodate the needs of Canadians who, as a result of a disability, cannot use the regular government telephone system. That was the main finding of *No Answer*, a report issued by the Commission in July 2005 on how well the government is living up to its obligations to provide accessible telephone services to people who are Deaf, deafened, hard of hearing or have a speech impairment.

The study found that only 50% of federal departments and agencies list TTY (teletypewriter) numbers and, when tested, only one third of these numbers were operational. The Commission recommended that the government implement a comprehensive strategy, including consideration of new technology, to resolve this problem in accordance with its legal obligation to accommodate the needs of persons with disabilities.

The government's response has been very encouraging. Numerous departments and agencies have advised the Commission of their plans to ensure their system works properly. The Treasury Board indicated its commitment to implementing the Commission's recommendations. The Board views *No Answer* as a useful case study in how to deal with broader issues of accessibility to federal programs and services. As a result, early in 2006, the Commission and the Treasury Board signed a Memorandum of Understanding which commits the two organizations to work together to quickly resolve the TTY issue, including consultations with representatives of the people who use TTYs, and to collaborate on other accessibility issues.

A Matter of Rights

In a report entitled *A Matter of Rights* issued in October 2005, the Commission called on Parliament to repeal section 67 of the *Canadian Human Rights Act*, a provision which denies First Nations people living on reserves access to the same human rights complaint redress system available to other people in Canada.

Human rights legislation, which includes provisions for the redress of human rights complaints, has been enacted in Canada at the federal, provincial and territorial levels. While issues of effectiveness and access remain, generally, any Canadian who believes that they have been the victim of discrimination can file a complaint with a human rights commission or tribunal. Any Canadian, that is, except those who happen to be a member of a First Nation living on lands governed under the *Indian Act*.

The report recommends that Parliament take immediate action to repeal section 67 while putting in place appropriate measures to ensure that First Nations and their citizens have access to a human rights mechanism that takes into account their particular needs, circumstances and unique constitutional status.

The Commission, consistent with its overall approach to human rights dispute resolution discussed elsewhere in the Report, also recommends that, to the maximum extent possible, human rights complaints should be resolved at the First Nation level, using community based systems that could include traditional dispute resolution approaches.

The Commission will work with the First Nations people to properly prepare for the introduction of new human rights protections which will reflect the particular needs and environment of this community.

Consultations with Parliamentarians of all parties were positive. The Commission will continue to pursue this issue and is hopeful that the new Parliament will take early action.

Hate on the Internet

In December 2005, the Commission convened a conference of experts and government officials from Canada, the United States and abroad to discuss how civil society, governments and the Commission could network with each other and coordinate their efforts to combat hate on the Internet.

Entitled *A Serious Threat*, the conference brought together a select group of specialists including Justice officials, police forces, human rights specialists, non-governmental organizations, Internet providers and academics. The conference looked at issues such as the criminal aspects of hate, self-regulation by Internet providers, the jurisprudence underpinning section 13 of the *Canadian Human Rights Act* which prohibits the electronic transmission of hate messages, human rights education and international developments.

The Commission will be publishing the conference proceedings and posting them on its website. It is also planning a strategy to follow up on the discussions held at the conference.

Current and Future Initiatives

During the year the Commission initiated a study on the availability of TTY service in the federally regulated private sector and the availability of government publications in alternative formats, such as braille and large print, accessible to people who are blind or visually impaired.

The Commission will continue to develop its capacity to deal with emerging and broad systemic issues. Other studies will be identified through a combination of information gathered from monitoring the investigation of complaints, results from environmental scans, stakeholder consultations and key events which may arise which negatively impact on the advancement of human rights in this country.

Included in the Commission's plans for 2006 is an examination of issues surrounding barrier removal for persons with disabilities in the workplace, and the situation of visible minorities in the federal public service.

Public Information

The Commission promotes a better understanding of its mandate, roles and activities by developing and conducting information programs across the country. The Commission's website is a key communications tool for reaching Canadians and employer organizations. As the website has been developed and enhanced, it has become an increasingly important source of information for the public.

In 2005, the Commission welcomed 720,612 visitors on its website, more than double the number that visited in 2004. This increased use of the Commission's website, through which the public can obtain a wide range of information about human rights and the Commission's activities, has contributed to reducing the number of telephone inquiries and requests for publications received.

SERVING CANADIANS	2004	2005
Website visitors	339,095	720,612
Publications distributed	71,433	44,848
Telephone inquiries	14,194	11,142*
E-mail inquiries	5,496	6,336

* Telephone inquiries to HQ reception only.

MODERN MANAGEMENT: OUR COMMITMENT TO ACCOUNTABILITY

During 2005, the Commission continued to progress in its commitment to sound management on a number of fronts. Following are this year's highlights in some key areas of the federal government's Management Accountability Framework.

Learning, Innovation and Change Management

The Commission's corporate culture includes continuous improvement and learning as core values. This is essential to fostering innovation across the organization.

A Learning Framework and Policy along with a two-year Action Plan will be finalized by March 2006 and a Learning Advisory Committee has been established to oversee its implementation. Individual learning plans in support of corporate goals and career development are now commonplace within the organization. Careful planning, investing, evaluation and reporting on progress are critical components of this framework.

With the development of employee knowledge and skills throughout all functions and staff ranks, the Commission is dedicated to helping its workforce achieve peak performance while assisting the organization deliver better results.

Performance Measurement

The Commission has developed a set of operational performance reports that together constitute a kind of "dashboard" for when the organization is on track or beginning to veer from result targets. Performance data is reviewed on a regular basis by both senior officials and Commissioners and forms the basis of the Commission's report to Parliament. Work continues on developing a set of outcome measures to assess the impact of the Commission's work more broadly. This is an important element in our efforts to build an organization where continuous improvement is embedded in our culture, and one which is crucial in our capacity to achieve sustainable results.

People

The Commission had key components in place when sweeping legislative changes to the way the federal government manages human resources came into force in December 2005. For example:

- The Commission had already adopted an Informal Conflict Management System as an additional tool in its kit for early conflict management and resolution.
- Updated human resources sub-delegations were put in place in accordance with the new direct authorities vested with deputy or agency heads; training will be offered in the next reporting period as a pre-condition to the exercise of delegated authority.
- Quarterly Labour Management Consultation Committee meetings provide a forum for discussion of human resources issues with the Commission's three bargaining agents.
- A new staffing regime was put in place, but new flexibilities will require open and transparent human resources planning related to business planning.

In addition, the Commission continues to foster diversity in its workforce and respect for the two official languages.

- All designated groups were adequately represented in the Commission's workforce, either meeting or exceeding the Commission's employment equity targets overall and in all categories. The Commission's targets are set by

the Public Service Human Resources Management Agency of Canada on the basis of 2001 Census data, and reflect the categories of employment in our workforce.

- As of December 31, 2005, the Commission had 185 employees, of whom

64.9% were women against a target of 60.9%
12.4% were persons with disabilities against a target of 3.4%
10.3% were visible minorities against a target of 8.7%
3.2% were Aboriginal people against a target of 2.5%

Notwithstanding these results, employment equity considerations continue to be a priority in all human resource practices as the Commission continuously strives to increase its representation of designated groups beyond basic levels.

- 73.5% of positions at the Commission were designated bilingual imperative, 23.8% were English essential, and 1.6% were either English or French.
- 52.4% of employees said their mother tongue was English and 47.6% French.
- Staff turnover remains at an appropriate level of 9.4%.

Stewardship

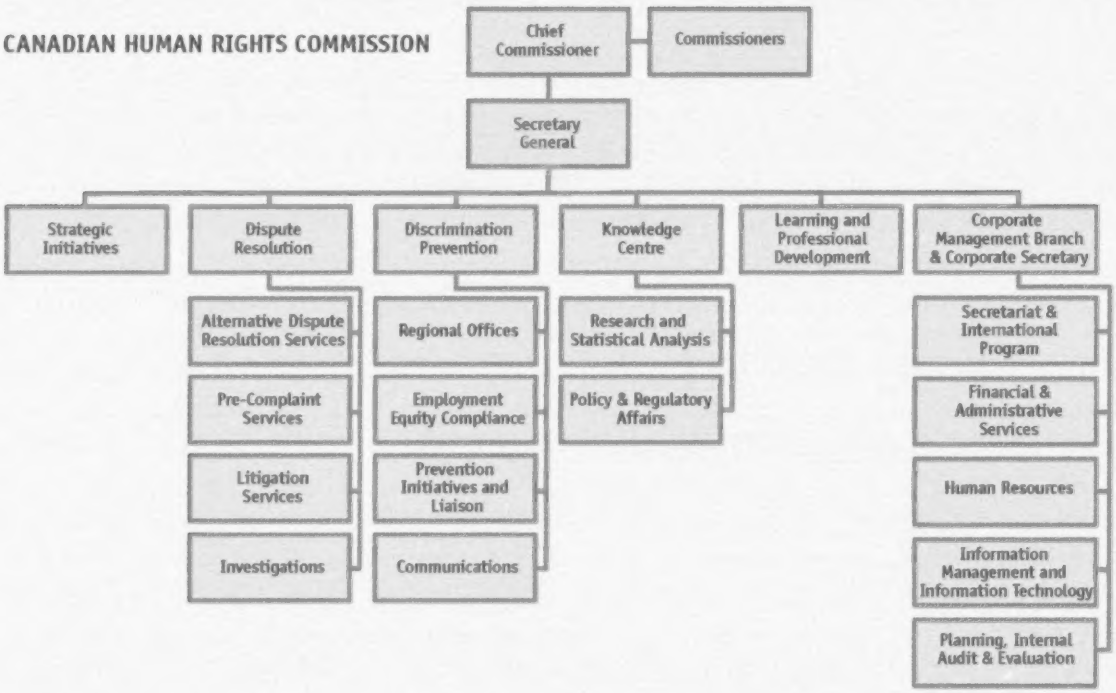
A financial management audit conducted by Progestics International in 2003 demonstrated that the Commission has an effective system in place. Attention to cost inputs, including cost-per-case analysis, has paid dividends. The Commission shifted process improvements to the less costly early resolution stages of a human rights case where service is both effective and timely. An executive-level committee oversees all contracts over $10,000.

Another facet of stewardship is the management of the Commission's information holdings. The Commission, with support from Public Works and Government Services, has launched a major initiative to modernize its electronic records and documents management system. The system's capacity to also accommodate new business applications for human rights cases and employment equity audits remains uncertain due to cost implications.

Risk Management

As outlined in last year's annual report, work on a risk profile and framework was completed. The Commission's Audit and Evaluation Committee, chaired by the Chief Commissioner, approved the Commission's risk-based, three-year audit and evaluation plan. Audit reports are posted on the Commission's website.

ORGANIZATIONAL CHART



MEMBERS OF THE COMMISSION

Mary M. Gusella, Chief Commissioner

Kelly Russ, Commissioner – British Columbia

Aimable Ndejuru, Commissioner – Quebec

Carol McDonald, Commissioner – Newfoundland and Labrador

Harish Chand Jain, Commissioner – Ontario